

**LOUISIANA STATE BAR EXAMINATION
CONSTITUTIONAL LAW
FEBRUARY 2020**

WARNING:

The following are not issues on the ESSAY PORTION (Questions 1 and 2) of the Constitutional Law Examination: mootness, ripeness, political question, case or controversy, standing or justiciability. **NO CREDIT WILL BE GIVEN FOR DISCUSSION OF THESE ISSUES IN EITHER OF THE TWO ESSAY QUESTIONS.**

QUESTION 1 — 40 POINTS

Women for Justice in America (“WJA”) hosts regular meetings to provide a space for members of the organization to come together to discuss issues related to their written mission regarding family and political issues. During their meetings, they pray about those issues and seek to apply biblical principles to the issues discussed. Their meetings often include guest lectures on various topics, such as early childhood education and women’s health initiatives. Paula, President of WJA, recently requested use of the auditorium in the city-owned public library to discuss concerns related to safety of students in public schools, decline in the education system, and the need to increase teacher pay and to strategize on how to lobby candidates for office to take positions supported by WJA on various issues. The intended guest lecturer was Betty, whose ultra conservative viewpoints and vast knowledge of biblical principles made her a popular figure amongst members of WJA. Any group desiring access to the auditorium must first obtain permission from Cynthia, a city employee who is the director of the library. Cynthia denied Paula’s request with a letter, stating that such a meeting would violate library policy because WJA was a group with religious purpose. The library’s published policy states:

The auditorium in our library is open for use of public groups or organizations of a civic, cultural, or educational character, but not for social gatherings, entertaining, dramatic productions, money-raising, or commercial purposes. It is also not available for meetings for social, political, partisan, or religious purposes or when, in the judgment of the director of the library, any disorder is likely to occur.

Cynthia emphasized that in accordance with its policy the auditorium was open only to group meetings for artistic or educational purposes and that, once she determined that a group would not be meeting for a religious or political purpose, she would then grant the group permission to use the auditorium. Cynthia further explained that, because WJA’s request was denied, Paula could approach the mayor and city council for further review of the request.

Paula, on her own behalf, had previously requested permission to use the auditorium for a “family gathering,” which Cynthia had granted. On the night of that event, 75 residents who learned of the event through social media attended the meeting, which lasted more than three hours and consisted of singing songs, praying for the local community, and discussing issues such as the condition of schools, the safety of students, and encouraging individuals to be role models in the community. Further, Paula was aware that her Kiwanis Club had used the auditorium for meetings that were for non-artistic or non-educational purposes, such as a fundraiser for the United Way, a potluck luncheon for retirees, and local swim club meetings.

Immediately upon receiving Cynthia’s letter, Paula sent a letter on behalf of WJA to the mayor and city council, requesting they reverse Cynthia’s denial of WJA’s request to use the auditorium; she cited among other things the prior permission granted to these other groups to use the auditorium. The mayor sent WJA a formal letter denying the request and stating that the auditorium is not available for any type of meetings for a religious purpose. Thereafter the city council, after consulting with the city attorney, unanimously passed a motion to exclude meetings with a religious purpose from the auditorium at the library.

Please answer the two subquestions which follow on the next page.

- 1.1 What claims, if any, might WJA have against the city under the Free Speech Clause of the First Amendment of the U.S. Constitution? Explain fully. (20 points)**
- 1.2 What claims, if any, might WJA have against the city under the Free Exercise Clause of the First Amendment? Explain fully. Include in your discussion whether the city might assert any valid defenses under the Establishment Clause of the First Amendment of the Constitution? (20 points)**

[End of Question 1]

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QUESTION 2 – 40 POINTS

Several years ago, a new species of frogs was discovered in the bayous of a handful of southern states in the United States, including Louisiana. It was discovered that this new species of frog was the source of a substance that acts to combat diabetes more effectively than any medication on the market and at a much lower cost. Because of these benefits, the species was named sugarfrog. Medication derived from the sugarfrog substance was recently approved by the Federal Drug Administration (FDA) and was found to produce the effects it was purported to produce. A few companies in some of the states where the sugarfrogs were found to be living began to catch the sugarfrogs and produce diabetes medication that was available to consumers nationwide by direct shipping from the processing lab via phone or internet orders.

Individuals from around the country began sharing the news of this newly available medication and its success in treating diabetes on social media, and news of success stories were also shared on both local and national news stations. After hearing of the growing interest in the medication from the sugarfrogs, Charles decided he would break into the market and formed Froggy, Inc., a processing lab for the sugarfrog substance, in Louisiana. Froggy, Inc. purchased three acres of land near a bayou where the sugarfrog was found to be in great supply and built a processing lab and distribution factory on the land. Froggy, Inc. used the same process for producing diabetes medication from sugarfrogs as the other processing labs in other states. Froggy, Inc. packaged and sold its product as “Sugar Be Gone.”

Charles then contacted his local state representative, and together the two persuaded the Louisiana State Legislature to enact a law prohibiting the import of sugarfrogs or any medications derived from sugarfrogs into Louisiana. The Act is called the Sugarfrog Reservation Act (Act), and the stated purpose of the Act is, given the state of the economy in Louisiana, to encourage Louisiana consumers to buy Louisiana products.

Josie is a resident of a small town in Louisiana. She was diagnosed with diabetes and has had a difficult time controlling her blood sugar due to the recent substantial increase in the cost of insulin. She has limited funds, and thus decided to purchase and try the sugarfrog medication. She found Froggy’s Sugar Be Gone online, but it was too expensive for her budget. After spending several days researching other sugarfrog medications online, Josie discovered a similar product with discounted prices from a company by the name of “Low A1C” out of South Carolina. Josie placed an online order with Low A1C only to be told that Louisiana state law precluded direct shipment of out-of-state sugarfrog related products.

- 2.1 Might Josie and/or Low A1C reasonably raise a Commerce Clause challenge to the Act, and is either likely to succeed? Discuss fully. (15 points)**
- 2.2 Might Josie and/or Low A1C reasonably raise a challenge under the Equal Protection Clause, and is either likely to succeed? Discuss fully. (15 points)**
- 2.3 Might Josie and/or Low A1C reasonably raise a Due Process challenge to the Act, and is either likely to succeed? Discuss fully. (5 points)**
- 2.4 Might Josie reasonably raise a Privileges and Immunities challenge, and is she likely to succeed? Discuss fully. (5 points)**

[End of Question 2]

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QUESTION 3 – 20 POINTS

The following subject matters were tested in this multiple choice section:

Adequate and Independent State Grounds; Justiciability
Anti-commandeering; Federalism
Establishment of religion; public displays
Free Speech; Time, Place and Manner Restrictions
Free Speech in Schools
Freedom of Religion (Free Exercise Clause)
Standing (2 questions)
State action
Takings Clause

[End of Question 3]

END OF CONSTITUTIONAL LAW TEST

**LOUISIANA STATE BAR EXAMINATION
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JULY 2019**

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QUESTION 1 – 40 POINTS

Columbia Parish is a sparsely populated parish in rural Louisiana and is adjacent to Mississippi. Historically, collection of trash has been a *private* function in this parish. Most local governments in the parish have never assumed responsibility for trash collection, and residents and businesses in most parts of the parish must contract with private haulers for the removal of their waste.

At the request of Columbia Parish, the Louisiana State Legislature created the Columbia Solid Waste Management Authority (the “*Authority*”). The Authority entered into contracts with Columbia Parish that required the Authority to purchase, operate, construct, and develop facilities for the processing and/or disposal of solid waste and recyclables generated in the parish. For its part, the parish agreed to ensure the delivery of all solid waste generated within its borders to facilities designated by the Authority.

Shortly after the Authority was created, Columbia Parish passed Flow Control Ordinance 201 (“*Ordinance 201*”) requiring that all solid waste and recyclables left at curbside must “be delivered to the appropriate facility, entity or person responsible for disposition designated by the parish or by the Authority.” Under Ordinance 201, any hauler handling waste generated in the parish must have a valid permit issued by the parish or the Authority and must deliver all waste of any kind to facilities designated by the Authority. Waste haulers who violate Ordinance 201 are subject to a fine of \$1000 for each violation.

The Authority owns and operates two landfills that it developed to serve Columbia Parish. These two facilities are the only landfills classified as “designated facilities” by the Authority. The Authority-owned landfills charge haulers who use its landfills a tipping (disposal) fee of \$80 per ton of trash deposited. The fees provide revenue to fund Authority operations. The provisions of Ordinance 201 effectively direct more than 200,000 tons of solid waste per year to the Authority’s two landfills, generating revenues of more than \$16 million for the Authority annually.

George owns a private landfill in Mississippi two miles outside of Columbia Parish and charges a tipping fee of only \$50 per ton. After the enactment of Ordinance 201, George noticed a significant decrease in his business because the haulers of waste from Columbia Parish are now required to deliver such waste only to one of the two landfills operated by the Authority. His business has struggled financially because of its inability to replace the revenue stream lost as a result of Ordinance 201.

Clarence, owner of Bayou Waste, LLC, a waste hauling service for Columbia Parish transported waste to George’s landfill to obtain the benefits of the lower tipping fees. Clarence’s company has been cited fourteen times for violations of Ordinance 201 and ordered to pay \$1,000 for each violation.

- 1.1. What arguments can George and Clarence each raise in challenge to Ordinance 201 under the Commerce Clause of the U.S. Constitution, and are they likely to succeed? (25 points)**
- 1.2. What arguments can George and Clarence each raise in challenge to Ordinance 201 under the Equal Protection Clause of the U.S. Constitution, and are they likely to succeed? (15 points)**

[End of Question 1]

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QUESTION 2 – 40 POINTS

During a recent period of increased attacks on law enforcement by persons wearing masks and other head coverings that obscured their identity, the Louisiana Legislature passed the Protect Our Police Act (the “*Act*”) making it a felony for anyone to appear in public with their head covered, except during Halloween and Mardi Gras. The Act reads in full as follows:

The Legislature of Louisiana finds that wearing head coverings in public poses a safety risk for our law enforcement officers and the public. So that law enforcement officials can properly enforce public order, it is essential that they be able to identify members of the public and not be deceived by someone’s appearance.

Whatever person uses or wears in any public place of any character whatsoever a covering that conceals the head of the person shall be imprisoned for not more than two years. Nonetheless, the prior sentence shall not apply to activities of children on Halloween or to persons participating in Mardi Gras activities.

After the Act was passed, the Governor, out of respect for those whose religions require heads to be covered, issued an Executive Order that no one will be discriminated against for covering their head for religious reasons. The Executive Order specifies that all charges under the Act must be dropped upon a showing that the person charged is a member of a religion that requires the person’s head to be covered.

Zander, the President of Xanadu, is now planning a visit to Louisiana, where there is a sizeable population of persons born in Xanadu. For many years Xanadu had a government-supported religion, Xanadism, which requires men (but not women) to wear full head coverings at all times. But President Zander recently ended all government support for Xanadism, banned the practice of all religions in Xanadu, including Xanadism, and has imprisoned those who practice their faith publicly.

People Against Zander (PAZ) plan a demonstration in New Orleans to protest President Zander’s repressive policies. PAZ leadership encourages all protesters to cover their head and faces both to show support for Xanadism and its practitioners and to avoid being recognized by Xanadu officials, who may know some of the New Orleans residents from Xanadu. PAZ offers to supply hats, wigs, and other disguises to anyone who may need them for the protest. It also plans to sell shirts that say “Zander Sucks.”

PAZ applied with the City of New Orleans for a demonstration permit; the application explains that participants will be covering their heads and faces as part of a political protest. Citing the Act, the City denied the permit, but the City advised PAZ that it will issue the permit if PAZ instructs its demonstrators to forgo the head and face coverings.

Alpha, a woman from Xanadu and a practitioner of Xanadism, plans to attend the demonstration with her head covered in support of Xanadism and its practitioners and to wear a cap supplied by PAZ, on which is printed the phrase “Pray for Xanadism.”

Beta, a practicing member of the Church of Bilbo, plans to attend the demonstration as a counter-protester because he believes that Xanadism is a cult that should not be protected. He plans to wear a hat as protection from the sun and as a sign of support for men from Xanadu, on which he has printed the phrase “Free Xanadu.”

Please answer the four subquestions which follow on the next page.

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- 2.1. What challenges based on the First Amendment should PAZ assert to obtain the permit as requested? Explain. (15 points)
- 2.2. Did the Governor have the authority to issue the Executive Order? Explain. Assume that Louisiana's constitution is the same as the federal constitution on these issues. (5 points)

Solely for Questions 2.3. - 2.4. below, assume that the Governor had the authority to issue the Executive Order, that the demonstration took place, that Alpha and Beta each attended as planned and that Alpha and Beta were both arrested under the Act.

- 2.3. What rights, if any, does Alpha have to challenge her arrest (i) under the religion clauses of the First Amendment and (ii) under the Executive Order? Explain. (10 points)
- 2.4. What rights, if any, does Beta have to challenge his arrest (i) under the religion or other clauses of the First Amendment and (ii) under the Executive Order? Explain. (10 points)

[End of Question 2]

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QUESTION 3 – 20 POINTS

For each of the following ten multiple choice items, select the letter that corresponds to the correct answer.

- 3.1. Establishment Clause and schools
- 3.2. Takings Clause
- 3.3. State action
- 3.4. Standing for corporations
- 3.5. Time, place and manner restrictions; Free speech
- 3.6. Free speech in schools
- 3.7. Equal Protection; rational basis scrutiny
- 3.8. Anti-commandeering; federalism
- 3.9. Adequate and independent state grounds; justiciability
- 3.10. First Amendment; campaign contributions

[End of Question 3]

END OF CONSTITUTIONAL LAW TEST

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QUESTION 1 - 40 POINTS

Tyler Sims lives in a town in Louisiana where he is a football coach for one of the local recreational football teams at a town-owned playground in a low-income neighborhood. His four-year old daughter is a cheerleader at the playground and his wife, Tiffany, coaches the cheer squad.

Tiffany works for Mallard Clothing U.S. Sales. She had been instrumental in getting Mallard Clothing to sponsor several youth teams in town. Mallard Clothing donated uniforms for all of the teams at the playground where Tyler coaches and for Tiffany's cheerleader squad. Each uniform has a small mallard duck on the jerseys and shorts. Mallard Clothing also donated a van that has a decal of a duck on both sides. The van allows the teams to travel to other playgrounds. Mallard Clothing also donated funds for a state-of-the-art gymnasium and football fields. Although the gymnasium and football fields did not display a mallard duck emblem, they each had plaques indicating that Mallard Clothing supplied the funding for the gymnasium and football fields.

Danny Golden, who owns a competing clothing company, is a prominent sponsor of youth activities and sports teams in town and is a member of an animal rights group, Friends of Animals (FOA). He and his group frequently attend city council meetings in town to urge pro-animal rights legislation. FOA believes use of names and likenesses of innocent animals degrades the respect due to living creatures.

Danny and other members of FOA are sponsors of town-owned playgrounds in high income neighborhoods where the playgrounds are state of the art and are well maintained. Each FOA member donates and raises more than \$50,000 annually for each playground in these high-income neighborhoods

At the urging of Danny and other FOA members, the town's City Council recently passed an ordinance that prohibits teams using town-owned playgrounds from wearing uniforms that feature animals. The ordinance also prohibits town-owned playgrounds from receiving equipment and donations from any companies or organizations affiliated with "anything" in which an animal is prominent. Any playground or team that has received donations prohibited by the ordinance, and any coach for any such team, would be fined and prohibited from participating in sports activities at town-owned playgrounds. The ordinance includes a finding that the population of mallard ducks and other animals featured on the various area team uniforms has noticeably decreased in the area in recent years.

Tyler's football team traveled to one of the playgrounds in a high-income neighborhood where Danny was in attendance. As a prominent booster at the playground, Danny urged the athletic director of the playground to prohibit Tyler's football team and the cheerleading squad from participating because their uniforms had a duck on them. He gathered several members of FOA and they protested the presence of both the football team and cheerleading squad. After several "Go Team, Go, Fight Ducks, Fight On" cheers, the athletic director ended the game in the middle of the first quarter and forced Tyler's football team to forfeit the game.

TEST CONTINUES ON NEXT PAGE

The next day, Tyler received official notice from the town's Director of Sports Activities, who advised that Tyler's team could not participate in any activities at town-owned playgrounds and that Tyler and several coaches at his playground were prohibited from participating in sports at any town-owned playground. The Director also fined each team that wore Mallard Clothing uniforms, and fined Tyler personally \$50. The following day, Tyler sent a letter to the Director:

Dear Director,

I am shocked that you fined me and won't let my team play. This seems like an unfair vendetta orchestrated by Danny Golden and his rich friends, who don't like poor kids in their neighborhood and don't like the fact that Danny's competitors at Mallard Clothing are trying to do something nice. I'd like a chance to present my side of the story.

The Director sent Tyler a terse reply: "I received your letter. But the law is clear, and you violated it. So, the sanctions stand."

- 1.1. What challenges, if any, might Tyler reasonably assert against the town under the First Amendment of the U.S. Constitution, and is he likely to prevail? Explain fully. (15 Points)**
- 1.2. What due process claims, if any, might Tyler reasonably assert against the town under the Fourteenth Amendment of the U.S. Constitution, and is he likely to prevail? Explain fully. (10 Points)**
- 1.3. Does Mallard Clothing have standing to assert due process claims against the town under the Fourteenth Amendment of the U.S. Constitution? Explain fully. (5 Points)**
- 1.4. What equal protection claims, if any, might Tyler reasonably assert against the town under the Fourteenth Amendment of the U.S. Constitution, and is he likely to prevail? Explain fully. (10 Points)**

[End of Question 1]

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QUESTION 2 - 40 POINTS

In response to pressure by several local environmental groups the Louisiana Legislature enacted the Chemical Emissions Act, which bans certain chemical emissions above specified levels (although the statute does have exceptions for acts of God). The federal Environmental Protection Agency (EPA) bans these same emissions, but only when such emissions are above specified levels much higher than the levels under the Chemical Emissions Act. The act includes legislative finding that the lower emissions are necessary for the health and safety of citizens of the State and will help prevent coastal erosion caused by climate change. The first violation of the act is to result in a \$1 million fine, and subsequent violations are to result in a fine of \$25 million and closure of the facility.

Also, in response to pressure by environmental groups, the Louisiana Legislature enacted the Truck Transportation Act, which prohibits the transportation of goods in trucks with diesel engines that are older than five years, unless they are retrofitted with certain pollution-mitigation components purchased and installed in Louisiana. The trucks are required to be certified by Louisiana mechanics to certify compliance with the act. As an incentive to improve economic development in the State of Louisiana, the act further provides that companies with a principal place of business in Louisiana are exempted from the act. A violation of the act could result in fines of \$20,000 per truck.

Global United owns several industrial facilities in Louisiana, Texas and Mississippi; each facility has been in existence for over 25 years. Global United's principal place of business is located in Houston, Texas. Global United owns and operates twenty trucks that transport goods throughout Louisiana, Texas and Mississippi; all of these trucks are older than five years, and only two of the trucks have been certified by a Louisiana mechanic as retrofitted with the necessary pollution-mitigation components under the Truck Transportation Act. Global United's other trucks that transport goods through Louisiana are not retrofitted.

Before these two statutes were enacted, Global United's facilities were within the permissible chemical emissions established by the EPA. The present emissions from Global United's facilities, however, are not within the limits allowable under the Chemical Emissions Act. The State of Louisiana has fined Global United \$1 million under the Chemical Emissions Act for one of its four facilities in Louisiana. Although not in violation of the EPA's emissions limits, Global United fears its other three Louisiana facilities will also be fined under the Chemical Emissions Act. In order to meet the stringent standards established by the Chemical Emissions Act, Global United would have to spend over \$100 million for its four facilities in Louisiana.

Louisiana United, which is not affiliated with Global United, is a Louisiana owned business that recently constructed a state-of-the-art industrial facility near Baton Rouge; this facility competes with Global United's facilities. Louisiana United is also involved only in the transportation of goods by truck. It has a fleet of ten trucks. Eight of its trucks were built in 2017 and are in full compliance with the Truck Transportation Act. Its two other trucks, however, are older than five years and are not retrofitted with the pollution-mitigation components under the Truck Transportation Act. Louisiana United did not seek certification of these two trucks based on the exemption contained in the Truck Transportation Act.

Please answer the three subquestions which follow on the next page.

TEST CONTINUES ON NEXT PAGE

- 2.1. What equal protection claims under the Fourteenth Amendment of the U.S. Constitution, if any, might Global United reasonably assert against the State of Louisiana regarding the Truck Transportation Act, and is Global United likely to prevail? Explain fully. (10 Points)**
- 2.2. What claims under the Supremacy Clause of the U.S. Constitution, if any, might Global United reasonably assert against the State of Louisiana regarding the Chemical Emissions Act, and is Global United likely to prevail? Explain fully. (15 Points)**
- 2.3. What claims under the Commerce Clause of the U.S. Constitution, if any, might Global United reasonably assert against the State of Louisiana regarding the Chemical Emissions Act and the Truck Transportation Act? Explain fully. (15 Points)**

[End of Question 2]

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QUESTION 3 - 20 POINTS

For each of the following ten multiple choice items, select the letter that corresponds with the correct answer.

- 3.1. Standing, mootness, live controversy
- 3.2. Treaties, Supremacy Clause, executive powers
- 3.3. Establishment of religion, public displays
- 3.4. Commerce Clause, equal protection, scope of legislation
- 3.5. Time, place and manner restrictions, free speech
- 3.6. State action, citizenship, state interests
- 3.7. Taking clause, due process, Commerce Clause, First Amendment
- 3.8. Commerce Clause, due process, equal protection
- 3.9. Equal Protection Clause
- 3.10. First Amendment, campaign contributions

[End of Question 3]

END OF CONSTITUTIONAL LAW TEST

**LOUISIANA STATE BAR EXAMINATION
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QUESTION 1 — 50 POINTS

Judge Mary Smith serves as a Justice of the Peace in Louisiana. She is a devout member of a religious group called the Pure Angelicals. The beliefs of that group mirror many of the tenets of Christianity but also borrow several practices and rituals from the Jewish and Muslim religions. All members of the staff and all appearing before Judge Smith are familiar with her religion and her practices because every day at 9:00 a.m., 12 noon, and 3:00 p.m., she asks all who are present with her to pray aloud with her. When she asks them to pray, she always asks the same way: “Do you want to join me to give thanks to God for all the good He has done for all of us? You don’t have to, of course, and you’re free to leave; but I know you don’t want God to think you’re ungrateful. God doesn’t look too kindly on ungratefulness, and I don’t either.” Judge Smith always incorporates references to prayers from the religions of all those praying with her.

Judge Smith’s religious beliefs include strong beliefs concerning protecting God’s “little ones” — children. She believes that children of interracial couples suffer more than children of parents who both shared the same race. Judge Smith also believes that interracial couples divorce at a higher rate than other couples. Judge Smith has researched these issues and found one study that supports her theories indirectly. That study indicates that many interracial children are sometimes confused where they fit in and struggle to cope with multiple cultures. The studies do not provide statistical evidence regarding divorce rates or any other negative lifestyle consequences resulting from an interracial marriage. Nevertheless, Judge Smith holds to her theory that interracial children suffer more than all others and that interracial unions offend God.

Diana and Simon, an atheist, interracial couple who had dated for seven years, recently went to Judge Smith for her to perform their wedding ceremony. They arrived simultaneously with two other couples: a Caucasian couple and an African American couple. The other couples had dated only one and two years, respectively. Because the couples arrived at Judge Smith’s chambers shortly before noon, she strongly encouraged them to pray with her. Although Diana and Simon were uncomfortable with the request, they did not know how to politely refuse. All of the couples prayed with the judge.

Judge Smith then denied Diana and Simon’s marriage request. She explained that it violated her religious beliefs to knowingly allow harm to one of God’s little ones and that she could not encourage a union that would bring so much suffering upon the couple’s future offspring. She instructed them that the Justice of the Peace in the next parish, 30 miles away, would perform their ceremony. Diana and Simon later learned that Judge Smith wed both of the other couples that day. As a matter of principle, Diana and Simon do not want to get married in another parish and instead want Judge Smith to marry them. Thus, they have now filed suit in Louisiana state court against Judge Smith in both her individual capacity and in her capacity as a Louisiana justice of the peace.

Please answer the four subquestions on the next page. The subquestions in Question 1 are not weighted equally. Explain each answer; an answer without an explanation will receive no credit.

TEST CONTINUES ON NEXT PAGE

- 1.1. Do Diana and Simon have any valid equal protection claims under the Fourteenth Amendment of the U.S. Constitution? Discuss fully. (15 points)**
- 1.2. Do Diana and Simon have any valid substantive due process claims under the Fourteenth Amendment of the U.S. Constitution? Discuss fully. (15 points)**
- 1.3. Do Diana and Simon have any valid claims under the Establishment Clause in the First Amendment of the U.S. Constitution? Discuss fully. (15 points)**
- 1.4. Do Diana and Simon have any valid claims under the Free Exercise Clause in the First Amendment of the U.S. Constitution? Discuss fully. (5 points)**

[End of Question 1]

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QUESTION 2 — 30 POINTS

Tom, a resident of Texas, and his brother, Lenny, a resident of Louisiana, are both avid hunters. Every year they plan a family hunting trip. This year's trip was planned as an excursion into the Louisiana swampland to hunt alligators.

When Tom and Lenny go to get their hunting licenses they are advised of a new Louisiana statute which states in part:

- (1) In order to provide an adequate, flexible, and coordinated statewide system of wildlife management and to maintain adequate and proper populations of wildlife species, the Louisiana Wildlife Commission (hereinafter "the Commission") shall have authority in this state, by appropriate rules and regulations, to:
 - (A) Determine under what circumstances, when, in which localities, by what means, what sex of, and in what amounts and numbers the wildlife of this state may be taken ...

They were further advised that pursuant to this legislative authority, the Commission created a system through which it determines by a field inventory, the number of that which can be hunted in a given year. The Commission would thereafter limit the total number of licenses that could be issued based upon that cap.

Both residents and nonresidents are required to apply for licenses for alligator hunting; however, the Commission limits the number of nonresident licenses to no more than one-third of all licenses issued. For the year 2018 it was determined that no more than 300 licenses for alligator hunting could be issued, thus limiting the number of out-of-state licenses to 100.

Tom completed his application for his license and was prepared to pay his fee for the license when he was advised by a clerk for the Commission that he was not eligible for a license due to his nonresident status. The clerk went on to explain that, according to the Commission's computer database, there were no more nonresident licenses available.

Tom considers his vacation plans ruined and he feels that his rights have been violated.

Please answer the two subquestions below. The subquestions in Question 2 are weighted equally. Explain each answer; an answer without an explanation will receive no credit.

- 2.1. Does Tom have any claims under the Privileges and Immunities Clause of the U.S. Constitution? Discuss fully. (15 points)**
- 2.2. Does Tom have any claims under the Commerce Clause of the U.S. Constitution? Discuss fully. (15 points)**

[End of Question 2]

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QUESTION 3 — 20 POINTS

Each of the following ten multiple choice items counts for two points. Select the letter that corresponds with the correct answer.

- 3.1. Commerce Clause**

- 3.2. Free Speech in Schools**

- 3.3. State Action**

- 3.4. Anti-Commandeering; Federalism**

- 3.5. Rational Basis Scrutiny; Equal Protection**

- 3.6. Commerce Clause**

- 3.7. Time, Place and Manner Restriction; Free Speech**

- 3.8. Import-Export Clause**

- 3.9. Adequate and Independent State Grounds; Justiciability**

- 3.10 Takings Clause**

[End of Question 3]

END OF CONSTITUTIONAL LAW TEST

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The following are not issues on the ESSAY PORTION (Questions 1 and 2) of the Constitutional Law Examination: mootness, ripeness, political question, case or controversy, standing or justiciability. NO CREDIT WILL BE GIVEN FOR DISCUSSION OF THESE ISSUES IN EITHER OF THE TWO ESSAY QUESTIONS.

QUESTION 1 — 40 POINTS

The Louisiana Legislature passed Act 111 making it a felony for a registered sex offender to access a commercial social networking website where the sex offender knows that the site permits minor children to create or maintain personal web pages. The Act sets forth a definition of which commercial social networking websites it applies to, and also exempts websites that provide only photo-sharing, electronic mail, instant messenger or chat room and message board platforms. The statute further provides that it does not apply to websites that have as their primary purpose the facilitation of commercial transactions involving goods or services between members or visitors.

During debate on Act 111, Representative Right argued that it was necessary to protect minors from the evils of sexual abuse. He noted that Act 111 would prohibit registered sex offenders from accessing web sites that allow them the opportunity to gather information about minors. He pointed out that the internet is a powerful tool for the would-be child abuser because children often use the internet in ways that give offenders easy access to their personal information by communicating with strangers and allowing sites to disclose their locations.

Prior to enactment of Act 111, Rory Clark was convicted of sex-texting with a 15-year old female when he was an 18-year old high school student. At the suggestion of his attorney, Rory pled guilty but did not have to serve any jail time as the judge suspended Rory's sentence. However, as a result of his conviction, he was required to register as a sex offender.

Rory is now a college senior and star quarterback for University. Rory is also a member of the Future Physicians Club, he mentors at the local high school and he is a member of the All Faith Church where he assists in the Youth Ministry. Father Goodman, who is the head minister at the All Faith Church, has been at the forefront of the Kneel for the Change movement.

Rory was recently nominated for the Heisman Trophy and found out that he was also accepted into University Medical School on a full scholarship. In response to his nomination for the Heisman Trophy and his acceptance into University Medical School, Rory logged on to Facetell.com (one of the most popular message-based, information-feed social media websites subscribed to by over a billion users worldwide) and posted the statement below on his personal profile to his over 1,000 "follow-friends" on the site:

"Coach Smith just told me I was nominated for the Heisman Trophy, and my mom called and read me the acceptance letter from University Medical School. My dreams are being fulfilled. I can't wait to take care of my family. Praise be to God, Allah and Jehovah ... my commander in chief, WOW!!! Thank you, Jesus and Father Goodman for your guidance!!!"

Rory also tweeted: "Hopefully my recent nomination for the Heisman will increase awareness for my stance against police brutality and racial injustice.... Kneel for change."

TEST CONTINUES ON NEXT PAGE

News of his Heisman nomination quickly spread. A local sportscaster who interviewed Rory made the announcement on the 6 o'clock news and stated that Rory is the leading candidate for the Heisman trophy who has also been accepted into University Medical School. He asked listeners to show their support for Rory and "like" Rory's Facetell page. Before the news ended, one of the anchors pointed out Rory's tweet and stated kids should "follow" Rory on Twitter. The anchor also stated "He is a role model and a faithful member of the All Faith Church."

One of the listeners was the Assistant D.A. who prosecuted Rory for the sex-texting case. He followed Rory's high school and college career but was dissatisfied that Rory, who in protest against police brutality and racial injustice, refused to stand during the national anthem before games. Coincidentally this D.A. had also attended University and disliked the All Faith Church and Father Goodman because of their position regarding the Kneel for Change movement. The Assistant D.A. promptly indicted Rory for violating Act 111. Rory soon learned of the Assistant D.A.'s dislike of both the All Faith Church and Father Goodman.

- 1.1. Does Rory have a valid basis to challenge the indictment under the Free Speech Clause in the First Amendment of the U.S. Constitution? Discuss fully. (24 points)**
- 1.2. Does Rory have a valid basis to challenge the indictment under the Free Exercise Clause in the First Amendment of the U.S. Constitution? Discuss fully. (8 points)**
- 1.3. Does Rory have a valid basis to challenge the indictment under the Establishment Clause in the First Amendment of the U.S. Constitution? Discuss fully. (8 points)**

[End of Question 1]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
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QUESTION 2 — 40 POINTS

Six years ago, the Louisiana legislature, with the encouragement of several anti-drunk driving organizations, enacted Act 102 which provides as follows:

In an effort both to curb persons from driving while intoxicated and to give other drivers warning about persons who may be driving while intoxicated, the Louisiana Department of Transportation and Development is directed to issue license plate stickers labeled “DWI” to every person who has been convicted of three (3) or more violations for driving while intoxicated and/or has been issued five (5) or more citations for driving while intoxicated, regardless of convictions. A “DWI” license plate sticker so issued is to be placed on the license plate of each vehicle owned by each such person and is to remain in place for a minimum of two (2) years following the issuance of the last citation for driving while intoxicated.

The presence of a “DWI” sticker on a license plate shall serve as probable cause for any law enforcement officer to stop the driver of said vehicle, check the license of the driver and confirm if the driver is driving while intoxicated.

Since Act 102 was passed, Bubba has been issued more than ten DWI citations, only two of which led to convictions. Following his second conviction, Bubba joined Alcoholics Anonymous and has been sober for the past three years. Bubba’s last citation was issued eighteen months ago but did not lead to a conviction because there was no proof that Bubba was intoxicated at the time he was stopped.

Bubba recently purchased a vehicle. Promptly thereafter, the Department of Transportation and Development (DOTD) sent Bubba a “DWI” sticker with a notice stating that, under Act 102, he was required to affix the sticker to the license plate on his vehicle. Bubba does not think that it is fair that he has to place this sticker on his license plate because, in part, he believes placing the sticker on his license plate would violate his privacy and his right to travel. Bubba has now sued the State through the DOTD for a judgment that, under the Fourteenth Amendment of the U.S. Constitution, he is not required to place any “DWI” sticker on his license plate.

- 2.1. Does Bubba have any valid procedural due process claims under the Fourteenth Amendment of the U.S. Constitution? Discuss fully. (15 points)**
- 2.2. Does Bubba have any valid substantive due process claims under the Fourteenth Amendment of the U.S. Constitution? Discuss fully. (15 points)**
- 2.3. Does Bubba have any valid claims under the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution? Discuss fully. (10 points)**

[End of Question 2]

TEST CONTINUES ON NEXT PAGE

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QUESTION 3 — 20 POINTS

Ten multiple choice questions, each worth 2 points, tested the following areas of law:

- 3.1. Federalism; Supremacy Clause
- 3.2. First Amendment; Freedom of Association
- 3.3. Commerce Clause
- 3.4. Free Speech in schools
- 3.5. State Action
- 3.6. Takings Clause
- 3.7. Anti-Commandeering; Federalism
- 3.8. Equal Protection; Rational Basis Scrutiny
- 3.9. Commerce Clause
- 3.10. Free Speech – time, place, manner restrictions

[End of Question 3]

END OF CONSTITUTIONAL LAW TEST